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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,051	08/11/2000	David W. Madden	5150-39300	8260
35690	7590	02/18/2005	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.			PARTON, KEVIN S	
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AUSTIN, TX 78767-0398			PAPER NUMBER	

2153

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/638,051

Applicant(s)

MADDEN ET AL.

Examiner

Kevin Parton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-33 is/are allowed.
- 6) ☒ Claim(s) 1-6, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 7-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09/20</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 09/23/2004 have been fully considered but they are not persuasive. Please see the following reasons and the grounds of rejection below.
2. On page 13, paragraph 2-3, the applicant argues that the reference to Krishnamurthy teaches aggregating multiple parameters into a single command and thus fails to teach linking a plurality of transfer objects together sequentially. This characterization of Krishnamurthy is not accurate. The reference does teach the aggregation of a set of commands (or transfer objects) into a single package to be delivered. However, each of the commands is executed separately and sequentially on the receiving system (column 17, lines 1-25). As such, the reference teaches the building of a chain of transfer objects and their subsequent execution. Nothing in the claims as written precludes the aggregation of the transfer objects into a single package for transfer and then unpacking and executing the multiple commands remotely.
3. On page 14, the applicant argues that the reference to Krishnamurthy only returns a single response and thus does not sequentially perform the request of multiple transfer objects. The argument is not persuasive for the same reasons shown above. Specifically, the requests of the transfer objects are being performed sequentially and then bundled for a single communication. Nothing in the current claims precludes this bundling.
4. Regarding claims 12 and 13, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it

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must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Further, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both the IEEE 1395 bus and the Universal Serial Bus are well known to one of ordinary skill in the art at the time the invention was made and are very commonly used as external transmission media. As such, their selection is an obvious modification of the claimed invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Krishnamurthy et al. (USPN 6,389,464).

7. Regarding claim 1, Krishnamurthy et al. (USPN 6,389,464) teaches a method for transferring data over an external transmission medium with means for:

- a. Receiving a plurality of transfer requests (column 8, lines 65-67).
- b. Building a chain of transfer objects, wherein each transfer object corresponds to one of the plurality of transfer requests, wherein the building the chain of transfer objects includes linking the plurality of transfer objects together sequentially (column 16, line 63 – column 17, line 25). Note that all operations or requests (objects) are bundled into a set of objects.
- c. Sequentially performing the request of each transfer object in the chain of transfer objects sequentially (column 16, line 63 – column 17, line 25).

8. Regarding claim 2, Krishnamurthy et al. (USPN 6,389,464) teaches all the limitations as applied to claim 1. They further teach means for:

- a. Creating a plurality of transfer objects (column 16, line 63 – column 17, line 4).
- b. Attaching a user callback function to zero or more of the plurality of transfer objects (column 17, lines 13-14).

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9. Regarding claim 3, Krishnamurthy et al. (USPN 6,389,464) teaches all the limitations as applied to claim 2. They further teach means for:

- a. Allocating memory for each of the plurality of transfer objects (column 17, lines 1-4). Please note that since the commands are stored on the site server, memory is allocated to them inherently.
- b. Populating each of the plurality of transfer objects with transfer information wherein the transfer information comprises one or more transfer types (column 8, lines 65-67; column 17, lines 1-10). Note that a transfer type can be SNMP.
- c. Allocating memory for a plurality of request block objects, wherein each of the plurality of request block objects is comprised in a corresponding one of the transfer objects, and wherein each of the request block objects provides an operating system independent and bus independent interface which encapsulates operating system dependent and bus dependent data (column 17, lines 1-25). Note that each system has its own platform dependencies and the site server packages requests for all of them.
- d. Populating each of the plurality of request blocks with operating system dependent and bus dependent information related to a request of a corresponding transfer object (column 17, lines 1-25). The requests are bundled by the site server.

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10. Regarding claim 4, Krishnamurthy et al. (USPN 6,389,464) teaches all the limitations as applied to claim 3. They further teach means wherein one or more transfer types comprise one or more of a read transfer, a write transfer, a single point transfer, a block transfer, a synchronous transfer, and asynchronous transfer, a random read transfer, or a random write transfer (column 17, lines 1-25).

11. Regarding claim 5, Krishnamurthy et al. (USPN 6,389,464) teaches all the limitations as applied to claim 1. They further teach means wherein the sequentially performing the request of each transform object in the chain of transfer objects reduces passive/dispatch level transitions (column 17, lines 22-25).

12. Regarding claim 6, Krishnamurthy et al. (USPN 6,389,464) teaches all the limitations as applied to claim 1. They further teach means wherein the sequentially performing the request of each transform in the chain of transfer objects reduces user/kernel mode transitions (column 17, lines 22-25).

13. Regarding claim 14, Krishnamurthy et al. (USPN 6,389,464) teaches all the limitations as applied to claim 1. They further teach means wherein the external transmission medium uses the Ethernet Protocol (figure 2; figure 3, element 62). Note that the LAN allows for communication between the site server and the devices.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnamurthy et al. (USPN 6,389,464) in view of Sescila, III et al. (USPN 5,875,313).

16. Regarding claim 12, although the system disclosed by Krishnamurthy et al. (USPN 6,389,464) (as applied to claim 1) shows substantial features of the claimed invention, it fails to disclose means wherein the external transmission medium comprises an IEEE 1394 bus, wherein the IEEE 1394 bus is implemented in accordance with an IEEE 1394 protocol specification.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Krishnamurthy et al. (USPN 6,389,464), as evidenced by Sescila, III et al. (USPN 5,875,313).

In an analogous art, Sescila, III et al. (USPN 5,875,313) discloses a system for communication via an external medium wherein the external transmission medium comprises an IEEE 1394 bus, wherein the IEEE 1394 bus is implemented in accordance with an IEEE 1394 protocol specification (figure 2).

Given the teaching of Sescila, III et al. (USPN 5,875,313), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Krishnamurthy et al. (USPN 6,389,464) by employing the use of IEEE 1394 protocol for communication. This is a common standard and benefits the system by allowing it to communicate with a wide range of devices connected via this type of bus.

17. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnamurthy et al. (USPN 6,389,464).

18. Regarding claim 13, although the system disclosed by Krishnamurthy et al. (USPN 6,389,464) (as applied to claim 1) shows substantial features of the claimed invention, it fails to disclose means wherein the external transmission medium comprises a Universal Serial Bus (USB) bus.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Krishnamurthy et al. (USPN 6,389,464).

A person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Krishnamurthy et al. (USPN 6,389,464) by specifically allowing for communication via USB. This benefits the system by allowing the management of devices that are quickly added and removed by users such as is allowed by USB.

Allowable Subject Matter

19. Claims 7-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

20. Claims 15-33 are allowed.

Conclusion

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (571)272-3958. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Parton
Examiner
Art Unit 2153

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